ratios can not be met by lenders in possession of OREO property which is financed under the development company program if the lender/seller is required to take a second lien. This rule grants small businesses utilizing the development company program equal access to opportunities to acquire OREO real estate at favorable rates and terms from such lending institutions.

The existing rule was adopted to insure that the combination of a seller's price and terms of financing reflected a fair market transaction. Changes in lender regulations resulting from the FIRREA and the FDICIA and the independent fair market appraisals will protect small business borrowers and the government against the risk of over-valuation of the OREO property. Additionally, SBA field offices will be provided guidance to insure that on a case by case basis no conflict of interest arises from the application of this rule.

*Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act and the Paperwork Reduction Act*

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

SBA certifies that this final rule will not constitute a significant regulatory action for purposes of Executive Order 12866, since the change will not result in an annual economic effect of $100 million or more.

SBA certifies that this final rule will not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

SBA certifies that this final rule will not impose new reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

SBA certifies that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of Executive Order 12778.

Catalog of Federal Domestic Assistance 59.036 certified development company loans (503 loans); 59.041 certified development company loans (504 loans).

**List of Subjects in 13 CFR Part 108**

Loan programs—business, Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA is amending Part 108 of title 13 of the Code of Federal Regulations as follows:

**PART 108—[AMENDED]**

1. The authority citation for Part 108 continues to read as follows:

**Authority:** 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

2. Section 108.503–8(b)(2) is revised to read as follows:

**§ 108.503–8 Third-party financing.**

* * * * *

(b) *Terms of third-party financing.*

* * *

(2) Where the seller of property for the project supplies any part of the permanent financing of such project, such financing shall be subordinate to the 503 loan, provided that if the property is classified as ''other real estate owned'' by a national bank or other Federally regulated lender, and an independent appraisal prepared by or under control of the SBA or the participating 503 company demonstrates that the property is of sufficient value to support the 503 loan, SBA may waive the requirement for a subordinate position.

* * * * *

Dated: December 23, 1994.

**Philip Lader,**

*Administrator.*

[FR Doc. 95–1502 Filed 1–19–95; 8:45 am]

BILLING CODE 8025–01–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 94–NM–100–AD; Amendment 39–9121; AD 95–02–02]**

## Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and Model C–9 (Military) Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and Model C–9 (military) airplanes, that requires inspection of the tailcone release locking cable fitting assembly, and replacement or modification of the assembly, if necessary. This amendment is prompted by reports of the inability of the tailcone to deploy because the swaged ball on the cable had jammed after passing into the release handle hole. The actions specified by this AD are intended to prevent the inability of the tailcone to deploy, which could impede the egress of passengers from the airplane during an emergency evacuation.

**DATES:** Effective February 21, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 21, 1995.

**ADDRESSES:** The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Walter Eierman, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5336; fax (310) 627–5210.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and Model C–9 (military) airplanes, was published in the **Federal Register** on October 18, 1994 (59 FR 52485). That action proposed to require inspections of the tailcone release locking cable fitting assembly, replacing or modifying fittings that do not operate properly, and the eventual replacement or modification of the fitting on all airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Several commenters supports the proposal.

One commenter regards the proposed inspection for proper operation of the fitting assembly as unnecessary and requests that the proposed rule be revised to delete this requirement. This

commenter points out that similar inspections already are required by AD 91–26–09 (amendment 39–8122, (57 FR 789, January 9, 1992)) and AD 92–01–03 (amendment 39–8126, (57 FR 1076, January 10, 1992)). The commenter considers that these previously required actions already assure an adequate level of safety. The FAA does not concur. The previously issued AD's cited by the commenter require inspections for cracks of the interior and exterior tailcone release handles; replacement or modification of the cable and handle assemblies to terminate the inspections; and repetitive functional tests of the tailcone release system at certain intervals. The functional testing required by those AD's is similar, but not identical, to the inspection required by this AD. Further, the FAA considers that one or more successful functional operations of the assembly does not assure that the fitting is acceptable and will not jam at the next activation. For this reason, the FAA considers that the one-time inspection required by this AD is warranted prior to the eventual replacement or modification action.

This same commenter requests that the proposed compliance time of 36 months for replacement or modification of the fitting assembly be extended if ample parts are not available to accomplish these required actions. Based on the data available to date, the FAA does not consider such an extension to be necessary. The FAA has received no indication from the manufacturer that parts availability will be a problem. An ample number of required parts is expected to be available to modify the fleet within the 36-month compliance time. However, should an operator encounter a problem with obtaining required parts in a timely manner, it may request an adjustment of the compliance time under the provisions of paragraph (c) of the final rule.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been added to this final rule to clarify this requirement.

Additionally, the FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $55 per work hour to $60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,986 Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and Model C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,170 airplanes of U.S. registry will be affected by this AD.

The required inspection will take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of this action on U.S. operators is estimated to be $140,400, or $120 per airplane.

The required replacement or modification would take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,388 per airplane. Based on these figures, the total cost impact of this proposed action on U.S. operators is estimated to be $3,144,960, or $2,688 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**95–02–02 McDonnell Douglas:** Amendment 39–9121. Docket 94–NM–100–AD.

*Applicability:* Model DC–9 series airplanes, Model DC–9–80 (MD–80) series airplanes, Model MD–88 airplanes, and Model C–9 (military) airplanes; as listed in McDonnell Douglas DC–9 Service Bulletin 53–269, dated August 11, 1994; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the

unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent the inability of the tailcone to deploy, which could impede the egress of passengers from the airplane during an emergency evacuation, accomplish the following:

(a) Within 18 months after the effective date of this AD, inspect the tailcone release locking cable fitting assembly for proper operation in accordance with the procedures specified in McDonnell Douglas DC–9 Service Bulletin 53–269, dated August 11, 1994. If the swaged ball on the cable can pass into the handle hole, prior to further flight, replace or modify the fitting assembly in accordance with the service bulletin.

(b) Within 36 months after the effective date of this AD, replace or modify the fitting assembly in accordance with McDonnell Douglas DC–9 Service Bulletin 53–269, dated August 11, 1994. Such replacement or modification constitutes terminating action for the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspection, replacement, and modification shall be done in accordance with McDonnell Douglas DC–9 Service Bulletin 53–269, dated August 11, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 21, 1995.

Issued in Renton, Washington, on January 6, 1995.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 95–792 Filed 1–19–95; 8:45 am]

BILLING CODE 4910–13–U

## 14 CFR Part 39

**[Docket No. 94–NM–234–AD; Amendment 39–9120; AD 94–26–51]**

## Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T94–26–51 that was sent previously to all known U.S. owners and operators of all McDonnell Douglas Model MD–11 series airplanes by individual telegrams. This AD requires a revision to the FAA-approved Airplane Flight Manual (AFM) to prohibit autoland operation below 100 feet above ground level (AGL), and the installation of certain flight control computer software. This AD provides for an optional terminating action for the AFM revision. This amendment is prompted by reports of a loose nut on a coaxial connector on a radio altimeter receiver/transmitter rack, and the transmittal of erroneous altitude data to the flight control computers below 100 feet AGL, which resulted in abnormal flare (pitch) control during autoland operation. The actions specified by this AD are intended to prevent abnormal flare (pitch) control, which could result in degradation of the landing capability of the airplane.

**DATES:** Effective February 6, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T94–26–51, issued December 19, 1994, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 6, 1995.

Comments for inclusion in the Rules Docket must be received on or before March 21, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–234–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–132L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5347; fax (310) 627–5210.

**SUPPLEMENTARY INFORMATION:** On December 19, 1994, the FAA issued telegraphic AD T94–26–51, which is applicable to all McDonnell Douglas Model MD–11 series airplanes.

That action was prompted by two reports of abnormal flare (pitch) control that occurred during autoland operation on McDonnell Douglas Model MD–11 series airplanes. McDonnell Douglas reported that, during one occurrence, radio altimeter #1 transmitted erroneous altitude data to the flight control computers below 100 feet above ground level (AGL). This condition caused the airplane to flare prematurely during landing. Following a subsequent occurrence of abnormal autoland operation, an operator noticed that a nut on a coaxial connector on the back of the radio altimeter receiver/transmitter rack was loose. After refastening the connector, the airplane exhibited normal flare during autoland operation.

Subsequent investigation of these reports conducted by McDonnell Douglas revealed that signals leaked between the transmitter and receiver of radio altimeter #1. The cause of this leakage has not yet been determined. In addition, the exact failure mode of the radio altimeter coaxial cable that can produce the leakage is unclear at this time. The manufacturer is conducting an investigation into the cause of this leakage in order to develop a corrective action.

Early and/or abnormal flare (pitch) control during autoland operation, if not corrected, could result in degradation of the landing capability of the airplane.